

Remarks

Applicant has carefully reviewed and considered the Examiner's Action mailed October 3, 2007. Reconsideration is respectfully requested in view of the comments set forth below.

By this Amendment, claims 1, 6, 11-13, 16 and 21-22 are amended, and claims 5 and 15 are canceled. Accordingly, claims 1-4, 6-14, and 16-22 are pending in the present application.

Claims 1-7, 11-17 and 21-22 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,377,699 to Musgrave et al. (hereinafter referred to as "Musgrave"). To the extent this rejection still applies, it is respectfully traversed.

Musgrave is directed to an iris imaging telephone security module and method where an illuminator 130 emits a wavelength in a range between 680 nm and 900 nm towards the iris of the eye being imaged. See column 2, lines 17-19 of Musgrave. The claimed invention recites that the band of light irradiated by the illuminating unit includes a Fraunhofer line having a wavelength from about 760 nm to about 766 nm. While Musgrave discloses a range that overlaps the claimed range, there are no specific examples falling within the claimed range that are disclosed. In order to anticipate the claims, the claimed subject matter must be disclosed with "sufficient specificity to constitute an anticipation under the statute." See MPEP 2131.03 II.

Musgrave further discloses that its mirror 120 reflects light having a wavelength from 400 nm to 700 nm and passes light having wavelengths greater than 700 nm. Thus, Musgrave discloses an imager 100 that can reflect light having wavelengths from 400 nm to 700 nm. Musgrave expressly discloses that light having a wavelength greater than 700

nm passes through the mirror (i.e., Musgrave does not disclose obtaining reflection light greater than 700 nm). Each of the independent claims recites obtaining reflection light of the irradiated light and reflected by the object and obtaining a video image of the object based on the obtained reflection light. Thus, according to the claimed invention, the illuminating unit irradiates light having a wavelength from about 760 nm to about 766 nm and the recited photographing unit obtains reflection light from the irradiated light (i.e., light having a wavelength greater than 700 nm) and then obtains a video image based on the obtained reflected light (greater than 700 nm). Musgrave does not disclose reflecting light having a wavelength greater than 700 nm and obtaining a video image based on the obtained reflected light. To the contrary, Musgrave teaches against obtaining reflected light having a wavelength greater than 700nm. Consequently, Musgrave cannot anticipate the claimed invention set forth in claims 1-7, 11-17 and 21-22 because it fails to disclose light having the narrow range of wavelength as recited in the claims and it fails to reflect the light having a wavelength greater than 700 nm where the recited irradiated light of the claims includes wavelengths from 760nm-766nm. That is, even if Musgrave inherently discloses the narrow range of wavelengths, it still fails to disclose using the light having a wavelength greater than 700nm that reflects the object to obtain the video image as recited in the claims. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) is respectfully requested.

Claims 8 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Musgrave in view of U.S. Patent Application Publication No. 2001/0031072 to Dobashi et al. (hereinafter referred to as "Dobashi"). Claims 9-10 and 19-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Musgrave in view of U.S.

Patent No. 4,993,068 to Piosenka et al. (hereinafter referred to as “Piosenka”). These rejections are traversed.

As explained in the paragraph spanning lines 11-20 of page 11 of the present application, in the photographing unit of the claimed invention, the light of the band of energy having a wavelength between about 760 nm to about 766 nm is irradiated onto the object by illuminating unit 20 and the reflection light reflected by the object is obtained by the photographing unit 30. As a result, of using light which is difficult to detect on the ground surface (light in the Fraunhofer line including a wavelength about 760 nm to about 766 nm), the obtained video image of the object is not influenced by natural light. Instead, the result is a proper photographed result even under an environment where the photographing is influenced by natural light.

Dobashi was applied for its disclosure of a facial image recognition apparatus and a pass control apparatus. There is no disclosure in Dobashi of obtaining reflection light from light irradiated at an object having a wavelength from about 760 nm to about 766 nm and obtaining a video image on the basis of the obtained reflection light, as required by each of the independent claims. Accordingly, no combination of Musgrave and Dobashi can render the claimed invention unpatentable. Withdrawal of this rejection is respectfully requested.

Piosenka is directed to an unforgeable personal identification system and was applied for its disclosure of a user submitting to a retinal scan and this information being passed to a trait processor. There is no disclosure of Piosenka concerning “wavelength” or “reflect” as these words are not even present in Piosenka. Consequently, Piosenka cannot cure the defects of Musgrave argued above: “Musgrave does not disclose

reflecting light having a wavelength greater than 700 nm and obtaining a video image based on the obtained reflected light.” Thus, no combination of Musgrave and Piosenka can render the claimed invention unpatentable and withdrawal of this rejection is requested.

The Examiner reviewed the Information Disclosure Statement that was filed on December 23, 2005 and determined that a copy of each foreign patent was not enclosed. However, the Information Disclosure Statement clearly stated that the references were not being provided because it was Applicant’s understanding that the references were being furnished directly by WIPO under an exchange program between the U.S. PTO, the EPO and the JPO. A review of the image file wrapper of this application reveals that while the International Search Report was furnished by WIPO, the references were not.

Since a copy of the International Search Report was submitted with the Information Disclosure Statement, the Patent and Trademark Office received two copies of the documents which caused the foreign documents to be listed. A Supplemental Information Disclosure Statement is being filed concurrently with this paper that includes a copy of each of the listed patent documents and an English language Abstract. It is believed that no fee is due as the documents should have been supplied by WIPO. However, if a fee is due, the Director is hereby authorized to charge any deficiency in fees to our deposit account No. 22-0261, under Attorney Docket No. 32178-226891.

Conclusion

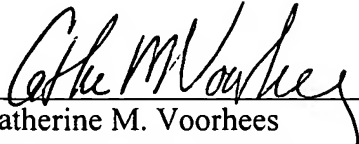
Applicants have fully responded to each matter of substance raised in the Office Action and believe that the case is in condition for allowance. Withdrawal of the rejections and allowance of claims 1-2, 4-14 and 16-22 of the application is therefore

courteously solicited.

Should the Examiner believe that a conference would advance the prosecution of this application, he is encouraged to telephone the undersigned counsel to arrange such a conference.

Respectfully submitted,

Date: March 3, 2008


Catherine M. Voorhees
Registration No. 33,074
VENABLE LLP
P.O. Box 34385
Washington, D.C. 20043-9998
Telephone: (202) 344-4000
Telefax: (202) 344-8300

CMV/elw

::ODMA\PCDOCS\DC2DOCS1\936393\1